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15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA
17 WESTERN DIVISION

18 UNITED STATES OF AMERICA)
and CALIFORNIA DEPARTMENT)
19 OF TOXIC SUBSTANCES)
CONTROL,)

20 Plaintiffs,)

21 v.)

22)
23 WHITE & WHITE PROPERTIES,)
RPM MERIT, INC., WHICO)
24 MACHINE COMPANY, INC.,)
WHITE, WHITE & WHITE)
25 PROPERTIES, WHITE, WHITE,)
WHITE & WHITE PROPERTIES,)
26 NORAM CORPORATION, ASTRO)
PRODUCTIONS & CAM)
27 ENGINEERING, DONALD WHITE,)
JOHN WHITE, ROBERT)
28 RAUTENBERG, THE ESTATE OF)
EVELYN RAUTENBERG,)

Civil No.

COMPLAINT FOR COST
RECOVERY

1 KENNETH WIDEMAN, STELLA)
2 WIDEMAN, THE 204 SOUTH)
3 MOTOR AVENUE QSF TRUST,)
4 AND MOTOR/IRWINDALE)
5 NEIGHBORHOOD QSF TRUST,)
6 Defendants.)
7

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23 Department of Toxic Substances Control
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1 The United States of America, by and through the undersigned attorneys, by
2 the authority of the Attorney General of the United States and at the request of and
3 on behalf of the United States Environmental Protection Agency (“EPA”), and the
4 California Department of Toxic Substances Control (“DTSC”) allege the
5 following:

6 STATEMENT OF THE CASE

7 1. This is a civil action brought pursuant to Section 107 of the
8 Comprehensive Environmental Response, Compensation, and Liability Act, as
9 amended (“CERCLA”), 42 U.S.C. § 9607, against White & White Properties, RPM
10 Merit, Inc., Whico Machine Company, Inc., White, White & White Properties,
11 White, White, White & White Properties, Noram Corporation, Astro Productions
12 & Cam Engineering, Donald White, John White, Robert Rautenberg, the Estate of
13 Evelyn Rautenberg, Kenneth Wideman, Stella Wideman, the 204 South Motor
14 Avenue QSF Trust, and Motor/Irwindale Neighborhood QSF Trust
15 (“Defendants”). Pursuant to CERCLA Section 107, 42 U.S.C. § 9607, the United
16 States and DTSC seek recovery of unreimbursed costs incurred and to be incurred
17 by them, together with interest, for activities undertaken in response to the release
18 or threatened release of hazardous substances at the Baldwin Park Operable Unit of
19 the San Gabriel Valley Superfund Sites, Areas 1-4, in Los Angeles County,
20 California (the “BPOU Area” or “Site”). The United States and DTSC also seek a
21 declaratory judgment, pursuant to CERCLA Section 113(g)(2), 42 U.S.C.
22 § 9613(g)(2), that Defendants are jointly and severally liable for future response
23 costs incurred by the United States and DTSC in connection with the Site.

24 JURISDICTION AND VENUE

25 2. This Court has jurisdiction over the subject matter of this action
26 pursuant to 42 U.S.C. §§ 9607 and 9613(b), and 28 U.S.C. §§ 1331 and 1345.

27 3. Venue is proper in this district pursuant to 42 U.S.C. § 9613(b) and 28
28 U.S.C. § 1391(b) and (c) because the claims arose, and the threatened or actual

1 releases of hazardous substances occurred, in this district, and because Defendants
2 reside in this district.

3 DEFENDANTS

4 4. Each Defendant is a “person” as defined by Section 101(21) of
5 CERCLA, 42 U.S.C. § 9601(21).

6 5. White & White Properties is a California General Partnership that
7 owned a facility at 145 S. Irwindale Avenue in Azusa, California (“the 145 S.
8 Irwindale Avenue property”) from approximately 1988 until 1998, and owned a
9 facility at 204 S. Motor Avenue in Azusa, California (“the 204 S. Motor Avenue
10 property”) from approximately 1992 until 1998. White & White Properties is a
11 person who, at the time of disposal of a hazardous substance, owned a facility from
12 which there was a release, or a threatened release, of a hazardous substance that
13 caused the incurrence of response costs.

14 6. RPM Merit, Inc. is a California corporation that operated at the 145 S.
15 Irwindale Avenue property from approximately 1994 until 1995, and operated at
16 the 204 S. Motor Avenue property from approximately 1994 until 1995. RPM
17 Merit, Inc. is a person who, at the time of disposal of a hazardous substance,
18 operated a facility from which there was a release, or a threatened release, of a
19 hazardous substance that caused the incurrence of response costs.

20 7. Whico Machine Company, Inc. is a California corporation that
21 operated at the 145 S. Irwindale Avenue property from approximately 1992 until
22 1994, and operated at the 204 S. Motor Avenue property from approximately 1992
23 until 1994. Whico Machine is a person who, at the time of disposal of a hazardous
24 substance, operated a facility from which there was a release, or a threatened
25 release, of a hazardous substance that caused the incurrence of response costs.

26 8. White, White & White Properties is a California General Partnership
27 that was the owner of the 145 S. Irwindale Avenue property from approximately
28 1982 until 1985. White, White & White Properties is a person who, at the time of

1 disposal of a hazardous substance, owned a facility from which there was a release,
2 or a threatened release, of a hazardous substance that caused the incurrence of
3 response costs.

4 9. White, White, White & White Properties is a California partnership
5 that was the owner of the 145 S. Irwindale Avenue property from approximately
6 December 1985 until 1988. White, White, White & White Properties is a person
7 who, at the time of disposal of a hazardous substance, owned a facility from which
8 there was a release, or a threatened release, of a hazardous substance that caused
9 the incurrence of response costs.

10 10. Noram Corporation is a California corporation that operated at the 204
11 S. Motor Avenue property from approximately 1990 until 1992. Noram
12 Corporation is a person who, at the time of disposal of a hazardous substance,
13 operated a facility from which there was a release, or a threatened release, of a
14 hazardous substance that caused the incurrence of response costs.

15 11. Astro Productions & Cam Engineering is a California corporation that
16 operated at the 204 S. Motor Avenue property from approximately 1967 until
17 1990. Astro Productions & Cam Engineering is a person who, at the time of
18 disposal of a hazardous substance, operated a facility from which there was a
19 release, or a threatened release, of a hazardous substance that caused the incurrence
20 of response costs.

21 12. Donald White is a general partner in White & White Properties,
22 White, White & White Properties, and White, White, White & White Properties.
23 Donald White is a person who, at the time of disposal of a hazardous substance,
24 owned a facility from which there was a release, or a threatened release, of a
25 hazardous substance that caused the incurrence of response costs.

26 13. John White is a general partner in White & White Properties, White,
27 White & White Properties, and White, White, White & White Properties. John
28 White is a person who, at the time of disposal of a hazardous substance, owned a

1 facility from which there was a release, or a threatened release, of a hazardous
2 substance that caused the incurrence of response costs.

3 14. Robert Rautenberg was an officer and director of Astro Productions &
4 Cam Engineering and Noram Corporation, and owned and operated at the 204 S.
5 Motor Avenue property from approximately 1967 until 1992. Robert Rautenberg
6 is a person who, at the time of disposal of a hazardous substance, owned and
7 operated a facility from which there was a release, or a threatened release, of a
8 hazardous substance that caused the incurrence of response costs.

9 15. Evelyn Rautenberg was an officer and director of Astro Productions &
10 Cam Engineering and Noram Corporation, and owned and operated at the 204 S.
11 Motor Avenue property from approximately 1967 until 1992. Evelyn Rautenberg
12 is a person who, at the time of disposal of a hazardous substance, owned and
13 operated a facility from which there was a release, or a threatened release, of a
14 hazardous substance that caused the incurrence of response costs.

15 16. Kenneth Wideman was an officer and director of Astro Productions &
16 Cam Engineering and operated at the 204 S. Motor Avenue property from
17 approximately 1967 until the mid-1980's. Kenneth Wideman is a person who, at
18 the time of disposal of a hazardous substance, operated a facility from which there
19 was a release, or a threatened release, of a hazardous substance that caused the
20 incurrence of response costs.

21 17. Stella Wideman was an officer and director of Astro Productions &
22 Cam Engineering and operated at the 204 S. Motor Avenue property from
23 approximately 1967 until the mid-1980's. Stella Wideman is a person who, at the
24 time of disposal of a hazardous substance, operated a facility from which there was
25 a release, or a threatened release, of a hazardous substance that caused the
26 incurrence of response costs.

27 18. The 204 South Motor Avenue QSF Trust is a Qualified Settlement
28 Fund Trust that is the current owner of the 204 S. Motor Avenue property from

1 1998 until the present.

2 19. The Motor/Irwindale Neighborhood QSF Trust is a Qualified
3 Settlement Fund Trust that is the current owner of the 145 S. Irwindale Avenue
4 property from 1998 until the present.

5 GENERAL ALLEGATIONS

6 20. The BPOU Area is located in the San Gabriel Valley in and near the
7 cities of Azusa, Irwindale, Baldwin Park, and West Covina in Los Angeles County,
8 California. The BPOU Area comprises a several mile long area of groundwater
9 contamination in the San Gabriel Valley. The BPOU Area is a “facility” within the
10 meaning and scope of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

11 21. In October 1984, EPA placed the BPOU Area on the National
12 Priorities List based on water quality information available at the time of listing.
13 40 C.F.R. Part 300, Appendix B. The BPOU Area is known as the San Gabriel
14 Valley Area 2 Superfund Site.

15 22. Subsequent investigation by EPA and others revealed the tremendous
16 extent of groundwater contamination in the San Gabriel Valley. During the past 25
17 years, more than one-quarter of the approximately 190 municipal water supply
18 wells in the San Gabriel Valley have been found to be contaminated, requiring
19 water companies to shut down wells, install new treatment facilities, and take other
20 steps to ensure that they can supply water meeting federal and State drinking water
21 standards.

22 23. From approximately October 1984 to April 1993, EPA undertook a
23 Remedial Investigation and Feasibility Study (“RI/FS”) for the BPOU Area,
24 pursuant to CERCLA and the National Contingency Plan, 40 C.F.R. Part 300. In a
25 report dated April 2, 1993, EPA presented the results of the BPOU Area RI/FS.

26 24. EPA’s decision on the interim remedial action for the BPOU Area is
27 embodied in an interim Record of Decision (“ROD”), executed on March 31, 1994.
28 The ROD is supplemented by an Explanation of Significant Differences issued in

1 May 1999. The selected interim remedy provides for the construction and
2 operation of groundwater extraction wells, treatment facilities, and conveyance
3 facilities capable of pumping and treating approximately 22,000 gallons per minute
4 of contaminated groundwater from the BPOU Area. This remedy is intended to
5 limit the movement of contaminated groundwater into clean or less contaminated
6 areas and depths, remove a significant mass of contamination from the
7 groundwater, and provide the data necessary to determine, in a subsequent final
8 Record of Decision, “in situ” cleanup standards for the BPOU Area.

9 25. Whico Machine Co., RPM Merit, Inc., Noram Corporation, Astro
10 Productions & Cam Engineering, Kenneth Wideman, Stella Wideman, Robert
11 Rautenberg, and Evelyn Rautenberg operated at the 145 S. Irwindale Avenue
12 property and the 204 S. Motor Avenue property (jointly, “Defendants’ Facilities”)
13 at various times between approximately 1967 and approximately 1995. Chemical
14 use at Defendants’ Facilities has included trichloroethene (“TCE”),
15 perchloroethylene (“PCE”), 1,1,1-trichloroethane (“1,1,1-TCA”), and other
16 chemicals.

17 26. In subsurface investigations at Defendants’ Facilities, PCE, TCE,
18 1,1,1-TCA, 1,1-dichloroethane, 1,1-dichloroethene, and other chemicals have been
19 detected in soil, soil vapor, and/or groundwater. These investigations confirmed
20 the presence of hazardous substances, as defined by Section 101(14) of CERCLA,
21 42 U.S.C. § 9601(14), at the 145 S. Irwindale Avenue property and the 204 S.
22 Motor Avenue property.

23 27. The 145 S. Irwindale Avenue property and the 204 S. Motor Avenue
24 property are each a “facility” within the meaning and scope of Section 101(9) of
25 CERCLA, 42 U.S.C. § 9601(9).

26 28. There was a “release” or a threat of a “release,” as defined by Section
27 101(22) of CERCLA, 42 U.S.C. § 9601(22), of hazardous substances into the
28 environment at and from the 145 S. Irwindale Avenue property and the 204 S.

1 Motor Avenue property.

2 29. Hazardous substances, within the meaning of Section 101(14) of
3 CERCLA, 42 U.S.C. § 9601(14) have been disposed of at the 145 S. Irwindale
4 Avenue property and the 204 S. Motor Avenue property.

5 30. Hazardous substances and solid wastes released from Defendants'
6 Facilities have moved downward from the surface and through soil, contaminating
7 groundwater beneath the 145 S. Irwindale Avenue property and the 204 S. Motor
8 Avenue property. The contamination has generally migrated southward and
9 westward from the 145 S. Irwindale Avenue property and the 204 S. Motor
10 Avenue property, leaving large plumes of contaminated groundwater in the BPOU
11 Area.

12 31. As of June 30, 2004, the United States had incurred response costs in
13 connection with the Site of approximately \$32.1 million. The United States has
14 received reimbursement to date in the sum of approximately \$11.4 million. The
15 United States continues to incur response costs in connection with the Site.

16 32. As of March 31, 2004, DTSC had incurred response costs in
17 connection with the Site in excess of \$3,960,000, and has received reimbursement
18 of approximately \$224,000. DTSC continues to incur response costs in connection
19 with the Site.

20 CLAIM FOR RELIEF
21 Response Costs under CERCLA Section 107

22 33. The allegations contained in Paragraphs 1 - 32 are realleged and
23 incorporated by reference herein.

24 34. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides that the
25 owner and operator of a vessel or a facility from which there is a release, or a
26 threatened release, of a hazardous substance that causes the incurrence of response
27 costs shall be liable for all costs of removal or remedial action incurred by the
28 United States Government or a State not inconsistent with the National

1 Contingency Plan.

2 35. Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), provides in
3 pertinent part that, in any action for recovery of costs: “the court shall enter a
4 declaratory judgment on liability for response costs or damages that will be
5 binding on any subsequent action or actions to recover further response costs or
6 damages.”

7 36. The actions taken by the United States and DTSC in connection with
8 the Site constitute “response” actions within the meaning of Section 101(25) of
9 CERCLA, 42 U.S.C. § 9601(25), in connection with which the United States and
10 DTSC have incurred costs.

11 37. The costs incurred by the United States and DTSC in connection with
12 the Site are not inconsistent with the National Contingency Plan, which was
13 promulgated under Section 105(a) of CERCLA, 42 U.S.C. § 9605(a), and codified
14 at 40 C.F.R. Part 300.

15 38. Each Defendant is jointly and severally liable to the United States and
16 DTSC for all response costs incurred and to be incurred by the United States and
17 DTSC in connection with the Site, including enforcement costs and prejudgment
18 interest on such costs, pursuant to Section 107(a) of CERCLA, 42 U.S.C.
19 § 9607(a).

20 PRAYER FOR RELIEF

21 WHEREFORE, Plaintiffs, the United States and DTSC, pray that this Court:

22 1. Enter judgment in favor of the United States and DTSC and against
23 the Defendants, jointly and severally, for all costs, including prejudgment interest,
24 incurred by the United States and DTSC for response actions in connection with
25 the Site and not otherwise reimbursed;

26 2. Enter a declaratory judgment on liability for response costs or
27 damages that will be binding on any subsequent action or actions to recover further
28 response costs or damages;

3. Award the United States and DTSC their costs of this action; and
4. Grant such other and further relief as this Court deems to be just and proper.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA

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1 FOR THE CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES
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